

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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THOMAS DUBE,

Plaintiff,

| VS.

WESTERN UNITED INSURANCE COMPANY,
et al.,

Defendant.

Case No. 2:14-cv-00495-JAD-VCF

ORDER

Before the court is the Plaintiff's Ex Parte Motion to Extend Time to Serve Defendant, Jennifer Hogan with the Second Amended Complaint (#19). Defendants did not file an opposition. For the reasons stated below, Plaintiff's motion is denied as moot.

BACKGROUND

On March 19, 2014, Plaintiff Thomas Dube served Defendant Jennifer Hogan with a Summons and Amended Complaint. On March 20, 2014, Plaintiff filed a Second Amended Complaint. Aside from the name of the insurance company being changed to the company's proper name, nothing else in the Second Amended Complaint differs from the Amended Complaint. On April 2, 2014, the matter was removed to federal court.

DISCUSSION

Under Federal Rule of Civil Procedure 5(a)(2), “no service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.” Nevada Rule of Civil Procedure 5(a) similarly states, “No service need be made on parties in default for failure to appear except that pleadings asserting new or additional

1 claims for relief against them shall be served upon them in the manner provided for service of summons
2 in Rule 4.”

3 Here, Plaintiff filed a Second Amended Complaint solely for the purpose of amending the name
4 of the insurance company to its proper name. The Plaintiff’s Second Amended Complaint did not assert
5 any new or additional claims for relief against Defendant Jennifer Hogan. The court finds that Defendant
6 Hogan does not need to be served with the Second Amended Complaint “under Rule 4”¹ or “in the
7 manner provided for service of a summons under Rule 4.”²

8 ACCORDINGLY, and for good cause shown,

9 IT IS ORDERED that the Plaintiff’s Motion to Extend Time to Serve Jennifer Hogan with the
10 Second Amended Complaint (#19) is DENIED as moot.

11 IT IS FURTHER ORDERED that Jennifer Hogan is in default for failing to answer the Amended
12 Complaint. Plaintiff’s counsel is ordered to deliver this order with a copy of the Second Amended
13 Complaint to Jennifer Hogan by September 12, 2014. Counsel is further ordered to file a certificate of
14 service and provide the court with Defendant Hogan’s address by September 12, 2014.
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16 The court clerk is directed to mail copies of this order and the Second Amended Complaint to
17 Jennifer Hogan at 450 St. Rt. 64, Tusayan, AZ 86023.

18 IT IS FURTHER ORDERED that any responsive pleading by Jennifer Hogan must be filed by
19 September 26, 2014.

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24 ¹ FRCP 5(a)(2)

25 ² NRCP 5(a)

1 IT IS FURTHER ORDERED that Plaintiff and Western Insurance must file a stipulated
2 dismissal or a discovery plan and scheduling order by October 10, 2014.
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4 IT IS SO ORDERED.
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6 DATED this 2nd day of September, 2014.
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10 CAM FERENBACH
11 UNITED STATES MAGISTRATE JUDGE
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